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MAR 10 2010

In re Patent No. 7,504,009 : DECISION ON REQUEST FOR
OSARA et al. : RECONSIDERATION OF
Issue Date: March 17, 2009 : PATENT TERM ADJUSTMENT AND
Application No. 10/533,798 : NOTICE OF INTENT TO ISSUE
Filed: May 4, 2005 : CERTIFICATE OF CORRECTION
Attorney Docket No. 4819-4743 :

This is a decision on the petition filed on September 22, 2009, which is being treated as a petition under 37 CFR 1.705(d) requesting that the patent term adjustment indicated on the above-identified patent be corrected to indicate that the term of the above-identified patent is extended or adjusted by six hundred (600) days.

The petition to correct the patent term adjustment indicated on the above-identified patent is **GRANTED to the extent** that the term of the above-identified patent is extended or adjusted by five hundred ninety-nine (599) days.

As the period from the filing date of the request for continued examination (RCE) to the issue date of the patent is not included in the "B" delay period, the over three year period begins on May 5, 2008, and ends on September 3, 2008, the day before the RCE was filed, and is 122 (not 123) days. See 35 U.S.C. 154(b)(1)(B)(i). As such, the patent term adjustment is 599, not 600 days.

The Office will *sua sponte* issue a certificate of correction. Pursuant to 37 CFR 1.322, the Office will not issue a certificate of correction without first providing assignee or patentee an opportunity to be heard. Accordingly, patentee is given **one (1) month or thirty (30) days**, whichever is longer, from the mail date of this decision to respond. No extensions of time will be granted under § 1.136.

The Office acknowledges the submission of the \$200.00 fee set forth in 37 CFR 1.18(e). No additional fees are required.

This matter is being referred to the Certificates of Correction Branch for issuance of a certificate of correction. The Office will issue a certificate of correction indicating that the term of the above-identified patent is extended or adjusted by **five hundred ninety-nine (599) days**.

Telephone inquiries specific to this matter should be directed to the undersigned at (571) 272-3211.

Christina Tartera Donnell

Christina Tartera Donnell
Senior Petitions Attorney
Office of Petitions

Enclosure: Copy of DRAFT Certificate of Correction

UNITED STATES PATENT AND TRADEMARK OFFICE
CERTIFICATE OF CORRECTION

PATENT : 7,504,009 B2

DATED : Mar. 17, 2009

DRAFT

INVENTOR(S) : Osara et al.

It is certified that error appears in the above-identified patent and that said Letters Patent is hereby corrected as shown below:

On the cover page,

[*] Notice: Subject to any disclaimer, the term of this patent is extended or adjusted under 35 USC 154(b) by 477 days

Delete the phrase "by 477 days" and insert – by 599 days--